

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Arup Acharya, et al. **Examiner:** Mew, Kevin D.
Serial No.: 10/714,732 **Group:** Art Unit 2616
Filed: November 17, 2003 **Docket:** YOR920030449US1 (8728-854)
For: **DIFFERENTIATED HANDLING OF SIP MESSAGES
FOR VOIP CALL CONTROL**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Examiner:

In response to the Final Office Action dated July 31, 2008 and the Advisory Action mailed October 16, 2008, Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a **Notice of Appeal** and a **Pre-Appeal Brief Request For Review Form** (PTO/SB/33).

REMARKS

Please consider the following reasons for this Pre-Appeal Brief Request for Review.

Claims 1-3, 5-8, and 10-13 are pending. Reconsideration of the rejections in view of the remarks is respectfully requested. Only rejections pertinent to independent claims are addressed herein; Claims 1, 6, and 11 are independent.

Claim 13 has been objected to as being a duplicate of Claim 12. Applicants attempted to cancel Claim 13 by the previous amendment – this amendment was not entered. Applicants will consider cancelation of Claim 13 upon disposition of the rejections.

Claims 1-2, 6-7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Dyke et al. (US 2004/0153497) in view of Bremner-Barr et al. (US 2003/0076848). The Examiner stated essentially that the combined teachings of Van Dyke and Bremner-Barr teach or suggest all the limitations of Claims 1-2, 6-7, and 11.

Van Dyke teaches that an application processor (AP) is selected to handle a SIP message according to a requested service type (see paragraph [0025]). Van Dyke does not teach or suggest “leaking the messages from at least one of the queues for enforcing a message overload protection for the associated message type” as claimed in Claims 1 and 6, nor “a plurality of queues associated to the message types, wherein the messages are placed in one of the plurality of queues according to a classification of the message and leaked from at least one of the queues for enforcing a message overload protection for the associated message type” as claimed in Claim 11. Van Dyke teaches that an AP is selected to handle a SIP message according to a

requested service type (see paragraph [0025]). Van Dyke is silent on the topic of message overload protection. Therefore, Van Dyke fails to teach or suggest all the limitations of Claims 1, 6, and 11.

Bremner-Barr teaches a leaky bucket mechanism as a rate-limiter (see for example, paragraph [0013]). The Examiner suggests in the Adviosry Action that Bremner-Barr teaches (at paragraph [0118]) “that the packets are leaked or dropped from the device for controlling the flow of packets entering the device.” Applicants respectfully disagree. Bremner-Barr implements a token-based leaky bucket to control traffic flow rates into a device; a token based system does not leak messages from the device or a queue, essentially as claimed. Further, Bremner-Barr does not teach or suggest a leaky-bucket whereby the data itself is leaked from a queue, essentially as claimed in Claims 1, 6, and 11. Paragraph [0117] of Bremner-Barr is instructive here; Bremner-Barr teaches that the rate-limiter controls the flow, preventing any flow from entering the WFQ system at too high rate. A system for preventing data from entering will not include a method for leaking data; the data cannot be leaked from a system if it has not entered the system. Bremner-Barr is clear on this point, if no token exists the packet is dropped before entering the device or alternatively held outside the device indefinitely until a token is available. Thus, Bremner-Barr’s rate control is not analogous to the claimed methods for leaking messages from a queue. Similar to Bremner-Barr, all data processed; data is not leaked, much less leaking a particular associated message type. Therefore, Bremner-Barr fails to cure the deficiencies of Van Dyke.

The combined teachings of Van Dyke and Bremner-Barr teach a token based rate controlled dispatcher for SIP messages. The combined teachings of Van Dyke and Bremner-Barr fail to teach or suggest a method including “leaking the messages from at least one of the queues for enforcing a message overload protection for the associated message type” as claimed in

Claims 1 and 6, nor “a plurality of queues associated to the message types, wherein the messages are placed in one of the plurality of queues according to a classification of the message and leaked from at least one of the queues for enforcing a message overload protection for the associated message type” as claimed in Claim 11. Therefore, Claims 1, 6 and 11 are believed to be allowable.

Claims 2 and 5 depend from Claim 1. Claim 7 depend from Claim 6. The dependent claims are believed to be allowable for at least the reasons given for Claims 1 and 6. Reconsideration of the rejection is respectfully requested. Claims 1-2, 6-7, and 11

Claims 3 and 8 have been rejected under 35 USC 103(a) as being unpatentable over Van Dyke in view of Bremner-Barr, and further in view of Horvath et al. (US 2005/0102421). Claims 3 and 8 depend from Claims 1 and 6, respectively. The dependent claims are believed to be allowable for at least the reasons given for Claims 1 and 6. Reconsideration of the rejection is respectfully requested.

Claims 5 and 10 have been rejected under 35 USC 103(a) as being unpatentable over Van Dyke in view of Bremner-Barr, and further in view of D’Souza et al. (US Patent App. No. 2004/0236966). Claims 5 and 10 depend from Claims 1 and 6, respectively. The dependent claims are believed to be allowable for at least the reasons given for Claims 1 and 6. Reconsideration of the rejection is respectfully requested.

Claims 12 and 13 have been rejected under 35 USC 103(a) as being unpatentable over Van Dyke in view of Bremner-Barr, and further in view of Zolnowsky et al. (US 5,826,081).

Claims 12 and 13 depend from Claims 1. The dependent claims are believed to be allowable for at least the reasons given for Claim 1. Reconsideration of the rejection is respectfully requested.

For the foregoing reasons, the application, including Claims 1-3, 5-8, and 10-13, is believed to be in condition for allowance. Early and favorable reconsideration of the objection is respectfully requested.

Respectfully submitted,

Dated: October 31, 2008

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